

## REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Applicants respectfully request that the foregoing amendments be entered, at least because they place the application in better condition for appeal.

Claims 1, 6 and 11 are currently being amended to clarify those claims.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1, 3-6, 8-11 and 13-15 are now pending in this application.

### ***Rejections under 35 U.S.C. § 101***

Claims 1 and 3-5 were rejected under 35 USC 101 as being directed to non-statutory subject matter.<sup>1</sup>

This rejection is respectfully traversed. Steps in independent claim 1 are tied to a particular machine, i.e., a receiver unit and one or more computers and are thus statutory under 35 USC 101. Moreover, because steps in the method are provided by one or more computers programmed to perform such steps, such computers are not mere general purpose computers, but must be programmed to perform such steps, and the computers therefore are particular machines. Accordingly, applicants request that the rejection under section 101 be withdrawn.

### ***Rejections under 35 U.S.C. § 112, second paragraph***

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<sup>1</sup> The Office Action on page 2 of the Office Action lists claims 1 and 3-6 as being rejected under section 101, but discusses only claims 1 and 3-5 in the body of the rejection and discusses only features in independent method claim 1. Thus, applicants believe that independent system claim 6 was not intended to be rejected under section 101. Clarification is respectfully requested.

Claims 1, 3-6, 8-11 and 13-15 were rejected under 35 USC 112, second paragraph, for being indefinite. Amendments have been made to the claims to obviate this rejection.

***Rejection under 35 U.S.C. § 103***

Claims 1, 3-6, 8-11 and 13-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,901,381 to Brown et al. (“Brown”) in view of U.S. Patent No. 5,893,076 to Hafner et al. (“Hafner”). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 1, with corresponding features in independent claims 6 and 7, recites: “calculating by one or more computers a variance between the amount of the material, that was actually used for the amount of goods sold by the at least one of the stores, sold to the at least one of the stores and the amount of the material that should have been used based on the recipe for the amount of the goods sold.” Thus, the method of claim 1 is directed to solving, via determining the variance, the problems arising from the manual production of a good according to a recipe using one or multiple materials, where the recipe is not being followed accurately, i.e., where the amount of material that was actually used for the amount of goods deviates from the amount of material that should have been used based on the recipe. Brown and Hafner fail to disclose the above recited feature of claim 1.

Brown discloses an inventory system for dining cars on a train. The Brown system includes an inventory adjust module 74. The module 74 monitors the depletion of inventory stocked on a train during a trip (col. 11, lines 15-19). The module takes into account the ingredients or recipes of an item when calculating the available items for sale (col. 11, lines 20-22). When an item is sold, the ingredients associated with the sold item are deducted from the inventory (col. 11, lines 55-59).

Brown, however, fails to disclose the feature of claim 1 of : “calculating by one or more computers a variance between the amount of the material, that was actually used for the amount of goods sold by the at least one of the stores, sold to the at least one of the stores and the amount of the material that should have been used based on the recipe for the amount of the goods sold.” That is, Brown is not concerned with the problems arising where the recipe is not being followed accurately, and does not disclose calculating a variance between the amount of the material that was actually used and the amount of the material that should have

been used based on the recipe. Brown does not monitor whether or not a recipe is being followed accurately, by determining the recited variance, but merely presumes the recipe is being accurately followed.

The Patent Office states on page 7: “Examiner notes that the claim claims a variance between the amount of material sold to the store . . . and the amount of material that should have been used based on the recipe,” and argues that this feature is disclosed by Brown. Applicants note that in the independent claims, as now amended, the variance is between the amount of the material that was actually used and the amount of the material that should have been used based on the recipe. This feature of the independent claims, as amended, is not disclosed or suggested by Brown.

Hafner was cited for other features of the claims, but fails to cure the deficiencies of Brown.

The dependent claims are patentable for at least the same reasons as their respective independent claims, as well as for further patentable features recited therein.

In view of the foregoing amendments and remarks, reconsideration and allowance of the application is respectfully solicited.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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